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Marine Case Said to Be In Jeopardy

Lack of Evidence, Witness Retractions, Faulty Quizzing Cited

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Washington Post Staff Writers

The prosecution of Marine guards accused of security breaches at U.S. diplomatic posts now may be jeopardized by lack of evidence, retractions of statements by key witnesses and legally faulty interrogation of suspects, according to government officials and attorneys familiar with the investigation.

The Naval Investigative Service (NIS), which was reorganized after the Walker family spy scandal to dedicate more resources to espionage cases, is the target of the harshest criticism. Some officials accuse the agency of major failures in its first significant espionage probe.

In addition, Marine Corps prosecutors say they may be unable to bring at least one suspect to trial on some charges because of the military legal code's statute of limitations, Pentagon officials said.

Officials said the widely publicized cases have become entangled in political bickering and rivalries among the numerous federal agencies and military groups involved. The investigation has resulted in arrest of four Marine security guards on a variety of charges and recall of 44 guards from nine U.S. diplomatic stations.

Gen. P.X. Kelley, the Marine Corps commandant, has recommended that the military seek help from the Justice Department in the cases. But Justice Department officials said last week they have little interest in entering the investigation. "It may be too late," one Justice Department official said. "There are problems with reinterviewing people. Once somebody's been interviewed, it's hard to go back and get the genie in the bottle."

The arrests of Marine guards at U.S. diplomatic posts in Moscow and Leningrad have shaken the elite Marine Corps security unit and prompted Defense Secretary Caspar W. Weinberger to declare that the United States suffered "a very great loss" because of the alleged security breaches.

But administration, military and congressional sources now say that although the potential for intelligence damage was great, there may be little tangible evidence that could be used in a criminal prosecution.

"It's going to be a tough job for any prosecutor," one senior Pentagon official said.

Evidentiary problems have been compounded by reports from defense attorneys that one suspect and a key witness have recanted original statements detailing the alleged espionage activities of Marine guards.

Shortcomings in the cases have only fueled the fingerpointing among bureaucracies with overlapping jurisdictions, according to interviews with officials in the government agencies involved.

The Marine Corps is prosecuting the cases, but its parent service, the Navy, is conducting the investigation. The State Department is involved because it has responsibility for the Marines at the embassies. The Central Intelligence Agency is participating because of the intelligence implications of the alleged security breaches. The Justice Department and the Federal Bureau of Investigation have authority to take over any cases the military does not prosecute.

"Everybody's trying to cover themselves," said one Pentagon official familiar with the investigation.

Even the Marine Corps proposal to include the Justice Department in a joint task force with the Pentagon to conduct the investigation had political overtones.

"A JTF [Joint Task Force] would take the focus off the Marine Corps as well as put some distance between us and the investigation/prosecution," according to an internal memoradum written by the Marine legal division. "Thus, we could blunt any criticism that we were not vigorously pursuing the cases."

The memo, which was first obtained by PBS television's "MacNeil/Lehrer NewsHour," also described the task force as a "preemptive strike" in case the Justice Department decided to use its authority to take over the cases.

"We thus could lose all jurisdiction—a 'politically' unpalatable result," the document said.

Justice Department officials and defense attorneys have accused the NIS, the frontline agency conducting the day-to-day investigation, of using legally questionable interviewing techniques and of failing to collect adequate evidence for successful prosecution.

"I am appalled to learn that the Naval Investigative Service is investigating the Marines in Moscow," said Rep. Jim Bates (D-Calif.), who introduced legislation two years ago to abolish the agency because he said it was so ineffective. "They are the last people on earth I would turn to. They just don't cut it."

A Navy official familiar with the investigation defended NIS, saying, "We're satisfied that NIS is proceeding and doing everything as well as is expected to be done."

Although Bates' bill never got out of the House Armed Services Committee, the Navy since has made major changes in the way NIS operates. It blocked commanding officers from stopping investigations of their commands and placed the agency under a flag officer who reports to the Chief of Naval Operations.

In addition, the new Naval Security and Investigative Command, established in August 1985 and headquartered in Suitland, was split into three divisions—naval investigations, counterintelligence and security.

"We're going to reorder the priorities that govern the use of our investigative capacity," Navy Secretary John F. Lehman Jr. said at the time. "We need to get on with changing the relative importance of things that we are investigating and put more attention to counterespionage."

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Until then, the largely civilian service spent much of its time investigating such violations as theft, unexcused absences and homosexuality on ships and bases.

Since the day last December when Sgt. Clayton J. Lonetree, 25, told a CIA agent in Vienna that he had been approached by a man whom he believed to be a Soviet operative he had met in Moscow, NIS investigators have interrogated about 200 Marine guards, using polygraph tests in many of the interviews, according to Pentagon officials close to the investigation.

Military documents outlining the alleged espionage operation paint a spy-novel scenario of young Marine guards who were seduced by Soviet women working at the diplomatic compounds. Eventually, according to documents, the women persuaded the Marine guards to allow Soviet agents, including a man called "Uncle Sasha," to roam through the embassy in Moscow and the consulate in Leningrad.

U.S. officials said the Soviet agents had access to a wide variety of sensitive security data, including cryptographic machines at the Moscow embassy. Some officials, including Weinberger, expressed concern that the cases may not have been isolated and that Soviets may have been using women to lure young Marines into espionage activities for years.

Those concerns prompted the NIS to launch a massive investigation of the 1,300-member embassy Marine security guard force. More than 70 investigators were dispatched to conduct interrogations and delve into the background of any guard with a disciplinary blemish in his military file. Investigators singled out Marines who had been accused or suspected of forbidden social contacts with foreign nationals, according to Pentagon officials.

In addition to Lonetree, who has been charged with 24 violations including espionage, investigators implicated Cpl. Arnold Bracy, 21, who worked with Lonetree at the Moscow embassy from 1985 to 1986. Bracy had been reassigned and demoted from sergeant to corporal last August for fraternizing with a Soviet woman at the post.

In his original statements, Bracy provided critical details of Lonetree's alleged espionage activities. Bracy later retracted those statements, according to defense attorneys, and his civilian lawyer, Charles Carter, now charges that NIS investigators coerced Bracy into signing a false statement by badgering him during three days of intense interrogation in a California motel room.

In addition, a key witness in the cases against Lonetree and Bracy—a Marine guard who also worked at the Moscow embassy—has recanted his early statements implicating his colleagues in espionage activities, according one of Lonetree's attorney's, Michael V. Stuhff.

The defense attorney alleges that the retractions by the key witnesses leave the prosecution with little concrete evidence against his client. Marine Corps officials have said it would be inappropriate for them to comment on the lawyer's statements.

But even if the signed statements of Bracy and the witness are used, Justice Department officials familiar with the investigation said NIS has done a poor job of questioning witnesses and building a paper trail of supporting evidence.

"We've been giving them advice, but they haven't been taking it," said one Justice Department official. "In espionage, the only way you can get someone is through a confession. Then you work backwards through travel records and things like that."

Congressional sources and defense attorneys also have raised concerns that the interrogation procedures used by NIS might violate some of the constitutional rights of the accused Marines. Lonetree's attorneys have said that as long as two days elapsed between the time investigators advised Lonetree of his constitutional rights and the interrogation.

Military spokesmen have declined to comment, but congressional sources who have been briefed on the case say that some members are troubled by the way NIS agents gave the rights warnings and fear the cases may have been hurt.

In another complication, Marine prosecutors may be faced with constraints imposed by statutes of limitations on some charges. Sgt. John J. Weirick, 26, an aircraft mechanic from Eureka, Calif., who served at the U.S. consulate in Leningrad from November 1981 to November 1982, was arrested on April 7 for suspicion of espionage and "other related offenses."

Weirick, who remains in the brig at Camp Pendleton, Calif., has not been charged with any violations and one Pentagon official said any case against Weirick could be complicated by the statute of limitations.

Although the restrictions do not apply to espionage under military law, Weirick could not be charged with any of the "other related offenses" because they occurred more than five years ago, according to another Pentagon official.

The fourth Marine implicated in the case is Staff Sgt. Robert S. Stufflebeam, 24, who is accused of having sexual relations with Soviet women while he was deputy commander of the security guard unit in Moscow. He has not been implicated in the espionage portion of the investigation, according to Pentagon officials, but has been confined to the Quantico Marine Base.

Staff writer Howard Kurtz contributed to this report.

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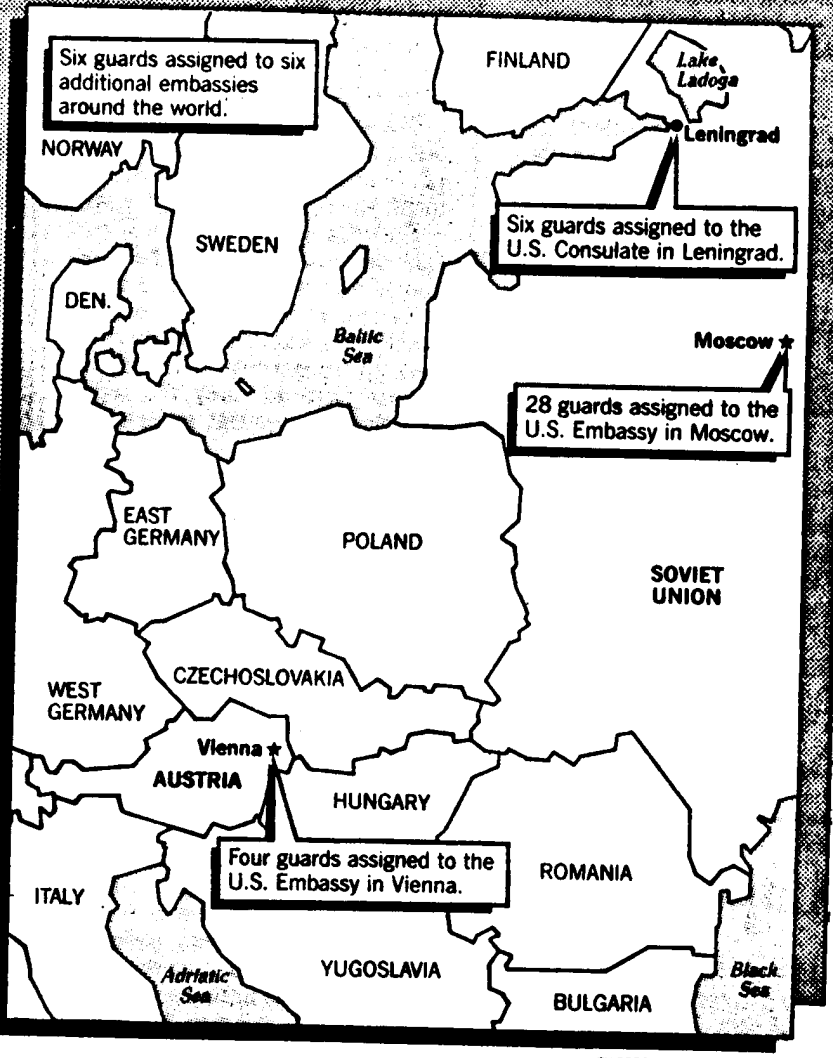
WHO'S INVOLVED IN THE MARINE CORPS INVESTIGATION

SGT. CLAYTON J. LONETREE, 25, of St. Paul, Minn. Charged with 24 violations of the Uniform Code of Military Justice, including espionage from January through March 1986 while serving at the U.S. Embassy in Moscow. Article 32 hearing (held to determine whether there is enough evidence to present a court-martial) is in recess until May 11.

CPL. ARNOLD BRACY, 21, of the Queens borough of New York City. Charged with seven violations, including espionage, from January through March 1986 while serving at the U.S. Embassy in Moscow. Article 32 hearing scheduled for Thursday.

SGT. JOHN JOSEPH WEIRICK, 26, of Eureka, Calif. Arrested April 7 on suspicion of espionage and related offenses while serving at the U.S. Consulate in Leningrad from November 1981 to November 1982. Has not been charged but is being held in the brig at Camp Pendleton, Calif.

STAFF SGT. ROBERT S. STUFFLEBEAM, 24, of Bloomington, Ill. Served in U.S. Embassy in Moscow from May 1985 to May 1986. Deputy commander of Moscow security guard unit. Charged with failing on three occasions to report contacts with foreign nationals and making false statements about those alleged contacts upon leaving his Moscow assignment. No hearing scheduled yet.



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